

**MINUTES
of the
SECOND MEETING
of the
LAND GRANT COMMITTEE**

**July 11-12, 2013
Tome Land Grant Community Center
Tome Land Grant**

The second meeting of the Land Grant Committee (LGC) was called to order at 10:07 a.m. on July 11, 2013 by Representative Miguel P. Garcia, chair, in the Tome Land Grant Community Center.

Present

Rep. Miguel P. Garcia, Chair
Sen. Jacob R. Candelaria, Vice Chair
Rep. Eliseo Lee Alcon
Rep. Alonzo Baldonado
Rep. David M. Gallegos
Rep. Jimmie C. Hall (7/12)
Sen. Gerald Ortiz y Pino
Rep. Debbie A. Rodella
Sen. Sander Rue

Absent

Sen. Daniel A. Ivey-Soto
Sen. Richard C. Martinez
Rep. Tomás E. Salazar

Advisory Members

Rep. Phillip M. Archuleta
Sen. Carlos R. Cisneros
Sen. Timothy M. Keller
Rep. Patricia A. Lundstrom (7/11)
Rep. W. Ken Martinez (7/11)
Rep. Christine Trujillo (7/11)

Guest Legislators

Rep. Kelly K. Fajardo
Rep. Patricia Roybal Caballero (7/11)

(Attendance dates are noted for members not present for the entire meeting.)

Staff

Douglas Carver, Staff Attorney, Legislative Council Service (LCS)
Peter Kovnat, Staff Attorney, LCS
Alexandria Tapia, Research Assistant, LCS
John M. Butrick, Law School Intern, LCS

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts are in the meeting file.

Thursday, July 11**Call to Order**

Representative Garcia welcomed everyone. Members of the committee, staff and audience were asked to introduce themselves.

Tome Land Grant History

Lawrence Sanchez, president of the Tome Land Grant; Rita Padilla-Gutierrez, vice president; and Rosemary Romero, treasurer, provided the committee with an introduction to the history of the land grant. Mr. Sanchez stated that the Tome Land Grant has over 300,000 acres and described the geographic boundaries. He talked about the history of losing the land and gaining it back, including the court battles involved and the building of the community center. The goal of the Tome Land Grant has always been to preserve: the history and agriculture of the land; holy sites (including churches and cemeteries); and the people. Tome was described as a small, but proud, land grant. Mr. Sanchez mentioned that a farmers market will be started in the local community this fall.

Discussions regarding frontier communities, migration of people and the need for appropriations to help preserve this and other land grants took place.

Tome Common Lands and the Valley Improvement Association (VIA)

Professor Antoinette Sedillo Lopez of the University of New Mexico (UNM) School of Law and president of the VIA, along with Paul Baca, chief executive officer of the VIA, talked about the history of the common lands and the role of the VIA. Most of the VIA land is privately owned. The biggest issue facing the owners of these lands and the VIA is the payment of back taxes. The two presenters suggested exempting these taxes as a solution. According to the presenters, the original purpose of the VIA was economic development, including manufacturing jobs, and investment in local, community-based businesses.

Motion 1

Representative Garcia made a motion for LCS staffers to draft legislation to waive back taxes if land is donated to a political subdivision of the state. Representative Baldonado seconded the motion, which passed unanimously.

Mr. Baca continued the presentation by stating that indentures were placed on the land when it was sold, providing the VIA with an annual fee from the landowners. These indentures are not in perpetuity but expire 40 years after the land is sold. Land lots are owned by people all

around the world, but most of these lots are worthless. Many owners have not paid the assessment indenture or property taxes, causing the land to revert back to the VIA. The presenters stated that this land needs to be reclaimed and restored back to what it was originally. The transfer of Tome Hill to the parish and people of Tome was discussed as an option.

One member of the committee inquired about the annual indenture amounts. The presenters stated that \$40.00 is the average. According to the presenters, some landowners want to give the land to the VIA, but the VIA suggests giving it to the land grant and the people of Tome. The same member suggested that the VIA work with the United States Department of Agriculture Rural Development regarding concerns of the effect that tax exemptions would have on those putting liens on the land and the constitutional issues involved.

In response to questions, the presenters explained that a majority of the land is undeveloped, while areas, including the UNM-Valencia campus, are well-developed. There are approximately 1,200 lots on the land grant, but environmental issues prevent more people from living on the land. Water is provided by utility companies; therefore, water is generally not an issue for the one-fourth acre lots. A member asked whether there is potential for a reapportionment or re-planning for lot consolidation. The presenters demonstrated on a large map of the area where lots are consolidated. Having multiple owners for these lots often prevents re-platting the area. The VIA is not considering condemning the land to get it away from the current owners.

One committee member talked about the VIA's role in developing the land in the area, including the UNM-Valencia campus. While access to utilities is not generally an issue, it can be a big issue when the lots are in remote locations. The committee member encouraged landowners to deed the land to their children or donate it to the land grant so that the land grant can take care of it. The member asked whether there is any grazing and revenue streams from that grazing. The presenters stated there is some grazing and revenue streams coming in from that grazing. The member then stated that eminent domain is not the answer and that one should be sensitive to private property rights. The member asked whether a foundation could be formed or a write-off created. No answer was provided. Finally, the member asked whether the VIA still maintains land by cutting weeds, etc., to which the presenters answered affirmatively.

Another committee member asked the members of the Tome Land Grant whether they are in a position to accept the land. Mr. Sanchez said that they would have to look at county law and use restrictions, but consolidating lots to garner more viable uses of the land is the biggest barrier. One member asked whether there is an incorporated town of Tome, to which Mr. Sanchez explained that there is not. The land grant is paying taxes on the land but does not pay taxes on the community center. Mr. Sanchez also stated that the VIA could trade lots to consolidate and that this is an ongoing process.

There was further discussion by committee members and presenters about the natural resources of the land grant, including the exploitation by entities such as Verizon. The

suggestion was made by a member of the committee that the VIA look into federal sources of money to help preserve the area through community projects.

One member applauded the efforts of the VIA in getting land to the parish and people of Tome. The land grant can facilitate funding because of its political subdivision status, whereas the parish would not have that ability. The community and people have been the source of preserving the land. The member stated that the goal of the LGC is to return common lands to the appropriate land grant. Giving the land grant the right to match the highest bid is the law now. The VIA should have this kind of perspective, according to the committee member. It is about creating the process and a way to go about getting the land back to the land grants. Many communities in New Mexico trace their origins to the land grants. Mr. Baca and Professor Sedillo Lopez applauded the efforts of the land grant leadership.

Public Comment

Representative Garcia began the afternoon session by allowing a public comment period, at which time Toby Lyon of the Tome Land Grant addressed the committee. Mr. Lyon agrees with prior discussions of tax-exempt status and is open to taking members up Tome Hill. One member asked about the extent to which some of the areas of the land grant are marked. Mr. Lyon stated that the areas generally are not marked very well. Mr. Lyon informed the committee of the ongoing litter issue and problems with dumping trash on the Tome Land Grant.

Motion 2

A motion was made by Representative Baldonado to write a letter to the New Mexico Department of Environment to assess the environmental trash issues on the Tome Land Grant common lands. Representative Gallegos seconded the motion, which passed unanimously.

Motion 3

Upon a motion by Representative Alcon, seconded by Senator Rue, the committee voted unanimously to approve the minutes of the June LGC meeting.

Training Workshops for Land Grant Boards

Juan Sanchez, chair, Land Grant Council, and Dr. Manuel Garcia y Griego, director, UNM Land Grant Studies Program, talked about the history of the UNM Land Grant Studies Program's land grant board training workshops, which were organized in 2011. Dr. Garcia y Griego detailed the workshops that the program offers and provided a corresponding handout to members. He stated that attendance at these workshops from the land grants generally is very good.

Members of the committee asked questions regarding the forms used by land grants to fund projects and how the Land Grant Council aids in this process. The presenters explained that these forms can be found online, making them accessible to people in a wider area. The presenters elaborated on the advantages of and participation in the certification process. The goal of the workshops is to get all of the land grants on the same page. Responding to a question from

the committee, Dr. Garcia y Griego confirmed that training workshops are open to anyone interested in attending.

A member of the committee asked if any issues remained regarding Department of Finance and Administration (DFA) recognition of the land grants and what the land grants can and cannot do as a result. The presenters stated that there is still a little confusion, but the process is much better now than it has been in the past. The member added that this is an important point so that land grants get the money, as opposed to someone else, after it is appropriated. Mr. Carver informed the committee that the relationship between the DFA and the land grants is one of the items on the work plan during this interim.

Motion 4

Representative Rodella made a motion, seconded by Representative Baldonado, to have staff work on legislation to extend to land grants the benefits currently applied to colonias. The motion passed unanimously.

A member of the committee asked about the certification process. The presenters stated that to be on a board of trustees, the members of that board have to be certified so that they are aware of the responsibilities. There was further discussion regarding the certification of board members, with comparisons made to training for school boards.

United States Forest Service (USFS) Report on Land Grant Boundary Disputes

James Melonas, New Mexico state liaison, USFS Southwestern Region, made a presentation to the committee on various matters concerning land grants and the USFS. Jerry Fuentes of Nuestra Senora del Rosario San Fernando y Santiago Land Grant (the Truchas Grant) joined Mr. Melonas for a discussion of the ongoing boundary dispute between the USFS and that land grant. Mr. Fuentes stated that USFS lands encroach on some of the land grant's land, with that encroachment varying from 10 feet to 100 feet in some areas. Mr. Fuentes stated that the goal of the land grant is to return the boundaries back to the original patented boundaries. Mr. Melonas stated that the USFS is looking at the survey markers and whether these markers are original. In some places, the markers are a mile or more from the fence. Mr. Melonas stated that the markers are likely township markers and not the land grant markers. Mr. Melonas stated that over the last year, progress has been made to resolve this dispute.

One member of the committee asked what is preventing the markers from reflecting the true boundaries. According to the presenters, there would need to be an agreement between property owners for this to happen. Mr. Fuentes talked about the land grants having a history of working with the USFS, and he talked about some other boundary disputes. There was a discussion concerning the authority of the USFS to move the fence if it is decided that the fence line is encroaching on land grant land. There was further discussion regarding the nature and location of the boundary markers.

Motion 5

A motion was made by Representative Rodella, seconded by Senator Candelaria, to have a letter sent by the committee to the local forest ranger expressing the wish that the boundary dispute between the USFS and the Truchas Grant be resolved in an expeditious manner. The motion passed unanimously.

Max Archuleta, range manager of the Abiquiu Land Grant, and David Lopez of the Abiquiu Land Grant joined Mr. Melonas in addressing the committee about boundary disputes between the USFS and the Abiquiu Land Grant. Mr. Lopez, who has done extensive research on the boundaries, stated that the Abiquiu Land Grant is in the same situation as the Truchas Grant. Cattlegrowers in the Abiquiu area are not responding to requests to work with the land grant, according to Mr. Lopez. Mr. Lopez would like the USFS to take responsibility for its fence line. There was also a discussion about the loss of land that the land grant has experienced. According to Mr. Archuleta and Mr. Lopez, there are still disputes about the original patented area. The fences themselves are a contention. The dispute over the location of the fences dates back to the late 1800s. Mr. Melonas indicated that he was not previously aware of the issues presented at the meeting but stated that the USFS is happy to work with land grants on issues within USFS capacity. A member of the committee commented that the prior board of the Abiquiu Land Grant had indicated that there are no outstanding issues between the USFS and the Abiquiu Land Grant. The member encouraged the new board to proceed as the Truchas Grant has done.

Mr. Melonas said that the USFS is working with the Land Grant Council and the DFA and that an agreement has been reached helping each side to work on these boundary disputes and other projects, such as improving forest health and reducing fire danger. The USFS is also working on language in the agreement and administrative and legal issues.

Mr. Melonas also stated that access to the Chama cemetery is also an issue, specifically motorized vehicle access. Staff members of New Mexico's congressional delegation recently went on a field trip to the area. A member of the committee questioned whether the cemetery is in the wilderness area. According to Mr. Sanchez of the Land Grant Council, this is still at issue. Another attendee, Leonard Martinez of San Joaquin Del Rio Chama Land Grant, talked about the granting of an easement. Mr. Melonas suggested looking at the congressional record to see what it says about the ownership record and whether an area is in a designated wilderness. The USFS is working with the congressional delegation to find a long-term solution to this issue. A member of the committee requested a status report before the end of the interim.

Legal Rights to Common Lands in the Spanish Land Grants of New Mexico

Dr. James Dory-Garduño provided the committee with an historical presentation on Spanish land grant common lands claims. According to Dr. Dory-Garduño, Spanish (Castilian) law was brought over from Spain to the land grants. Some land grants, such as San Miguel del Vado, never left the Spanish domain. Common lands under the Castilian grants were not recognized by the courts of the United States, causing conflicts. The Treaty of Guadalupe Hidalgo does not explain how to adjudicate land. This law is still relevant to explain why acts of

possession are a transfer of legal title, not equitable title. Dr. Dory-Garduño also provided an historical review to help explain how two villages could own the commons, and that land would not be part of the "Crown". In New Mexico, the argument with the commons is that the monarchy owned the land, and, therefore, the land became part of the United States under the treaty. By this historical understanding, commons are owned by the grantees. Members of the committee asked questions regarding the original usage of terms such as *ejidos* and leagues. Dr. Dory-Garduño explained the evolution of several terms and their application to land grants. Another member of the committee questioned the appropriate measures to address the losses of land. Dr. Dory-Garduño proposed that Congress could allow specific causes of action, small in scope, under certain conditions. Dr. Dory-Garduño was asked about the provisions in British law about communal lands. He explained that Boston did have a commons, but it was not that strong. The Spanish had stronger commons due to purposes of survival, agriculture, etc. The Anglo-American tradition does not have the same type of practice, he noted, and the tradition of land speculation was very strong in colonial times.

Recess

The committee recessed at 4:01 p.m.

Friday, July 12

Tour of Tome Land Grant

The committee reconvened at 9:00 a.m. for a tour of the Tome Land Grant. The tour included a walk to the land grant's cemetery and church and a hike up the pilgrimage route of Tome Hill, where members of the land grant pointed out boundaries and areas of interest.

Adjournment

There being no further business before the committee, the second meeting of the LGC adjourned at 12:30 p.m.